



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,290	03/26/2004	Tetsuro Takizawa	17586	2185

23389 7590 01/24/2007
SCULLY SCOTT MURPHY & PRESSER, PC
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

EXAMINER

PEIKARI, BEHZAD

ART UNIT	PAPER NUMBER
----------	--------------

2189

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/24/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/811,290

Applicant(s)

TAKIZAWA, TETSURO

Examiner

B. James Peikari

Art Unit

2189

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/25/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

2. The drawings are objected to because: all occurrences of "miss hit" should be replaced with "miss". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. A substitute specification and Abstract in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) is required. The substitute specification filed must be accompanied by a statement that it contains no new matter.

Some errors in idiomatic English are shown below, using page 2 as an example:

- (A) In line 1, "that is" should replace "being".
- (B) In line 3, "performed" should replace "gotten".
- (C) In line 6, "hit" should replace "page hit".
- (D) In line 7, "miss" should replace " 'miss hit (mishit)' ".
- (E) In line 10, insert "the" between "changing" and "timing".
- (F) In line 11, "hits" should replace "times of page-hit accesses".
- (G) In line 18, "can" should replace "cannot"
- (H) The entirety of lines 20-27 cannot be understood by the examiner.

Claim Objections

4. Claims 1-20 objected to because of numerous informalities, mostly resulting from errors in idiomatic English. Some errors are shown below, using claim 1 as an example:

- (A) In line 2, "request" should replace "make a request".
- (B) In line 5, "a" should be inserted between "not" and "next".
- (C) In line 6, "will be directed" should replace "becomes access".
- (D) In line 7, "that 'a page hit is" should be deleted.

- (E) In line 8, "a 'hit' " should replace "found' ".
- (F) In line 8, "a" should be inserted between "that" and " 'next".
- (G) In line 8, "will be directed" should replace "becomes access".
- (H) In line 9, "being presently accessed" should be deleted.
- (I) In line 9, "the" should be inserted between "at" and "time".
- (J) In line 9, "pending" should replace "present".
- (K) In line 10, "a 'miss' " should replace " 'a miss hit is found' ".
- (L) In line 11, "will be directed" should replace "becomes access".
- (M) In line 11, "being" should be deleted.
- (O) In line 12, "presently accessed" should be deleted.
- (P) In line 12, "the" should be inserted between "at" and "time".
- (Q) In line 12, "pending" should replace "present".

Appropriate correction to all of the claims is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Some errors are shown below, using claim 1 as an example:

(A) In line 3, it is unclear whether the antecedent basis of “memories” includes the “memory” of line 2.

(B) In line 6, it is unclear what is meant. Presumably, after the word “page”, one of the following should be inserted, depending on what is meant:

- (1) “as a previous access”;
- (2) “as the current access”; or
- (3) “as the access immediately preceding said next access”.

(C) In line 8, it is unclear what is meant. Presumably, after the word “page”, one of the following should be inserted, depending on what is meant:

- (1) “as a previous access”;
- (2) “as the current access”; or
- (3) “as the access immediately preceding said next access”.

(D) In line 11, it is unclear what is meant. Presumably, after the word “page”, one of the following should be inserted, depending on what is meant:

- (1) “as a previous access”;
- (2) “as the current access”; or
- (3) “as the access immediately preceding said next access”.

Response to Arguments

7. The previous rejections are withdrawn herewith. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. It is not possible from either the specification or the claims to determine the scope of this language or to determine the metes and bounds of the claims.

Due to the ambiguities and confusion in claims 1-20 as cited above, no art has been applied thereto, see *In re Steele*, 49 CCPA 1295, 305 F. 2d 859, 134 USPQ 292 (1962) and *In re Wilson*, 424 F.2d 1382, 165 USPQ 494 (CCPA 1970). The examiner will not speculate as to the intended meaning.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Peikari whose telephone number is (571) 272-4185. The examiner is generally available between 7:00 am and 7:30 pm, EST, Monday through Wednesday, and between 5:30 am and 4:00 pm on Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Reginald Bragdon, can be reached at (571) 272-4204. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2189

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'B. James Peikari', with a stylized, cursive script.

B. James Peikari
Primary Examiner
Art Unit 2189
1/22/07